

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY and PROBABLE CAUSE ANALYSIS
and DETERMINATION REPORT**

<i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i>	Certificate Holder:	Lisa Price
	Certification Number:	20120
	Business Name:	Entrust Fiduciary Services
	Certification Number:	20545
	Type of Certificate/License:	Fiduciary
<i>COMPLAINANT</i>	Name:	Cindy Pratt
<i>INVESTIGATION INFORMATION</i>	Complaint Number:	14-0007/0008
	Investigators:	William MacIntyre

Complaint Received:	9/26/14
Complaint Forwarded to the Certificate Holder:	9/30/14
Certificate Holder/Licensee Received Complaint:	10/7/14
Response From Certificate Holder:	11/7/14
Period of Active Certification/Licensure:	6/1/14- 5/31/16
Status of Certification/License:	Active
Availability of Certificate Holder/Licensee:	Available
Availability of Complainant:	Available
Report Date:	12/9/15

ALLEGATIONS:

- 1) Complainant claims Entrust failed to include the value of decedent's life insurance policy with the estate assets.
- 2) Complainant alleges Entrust did not provide beneficiaries with estate inventory in a timely manner.
- 3) Complainant alleges Entrust mismanaged decedent's estate resulting in excess fee's being charged.

List of sources for obtaining information: (Investigative, records, outside resources, etc.):

- Written complaint and documentation submitted by complainant Cindy Pratt
- Written response and documentation submitted by certificate holder Lisa Price
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-202, and Arizona Supreme Court Rules
- Review of Maricopa County Superior Court case PB2013-070043

PERSONS INTERVIEWED:

Cindy Pratt (Complainant), Lisa Price (CH), Lisa Thomas (Price's Assistant), "Wendy" (Claims Rep @ "FEGLI" Life Insurance)

SUMMARY OF INVESTIGATION:

Complainant Cindy Pratt, stepdaughter of decedent Edward Hartman, explained "Entrust Fiduciary Services" (Principal Lisa Price) was appointed as her father's Personal Representative after his death which occurred December 10, 2012. Although her official Court appointment was not until late May 2013, Price was actively involved in the estate with Hartman's attorney, Lora Johnson, before his death.

After Hartman's death, Price sent an introductory letter to all of his heirs in late February 2013. The letter explained the general probate process and included a brief description of Hartman's estate. Included in the estate description, Price referenced a life insurance policy which she described as payable to Hartman's estate with an unknown amount. Price concludes the letter with instructions for the heirs to decide on Hartman's property and to contact her office for any questions.

Price sent a follow-up letter to the heirs on May 29, 2013, informing them she was "finally able to access Ed's safe deposit box which contained his Last Will and Testament and were able to secure appointment as the Personal Representative for his estate." Price included several documents for the heirs to review, and in some cases return, then goes on to explain her upcoming duties. Price goes into detail about her preparation for the 2013 estate tax returns, her liquidation of certain trust assets and the necessity of publishing a "Notice to Creditors." Price explained the "Notice" requires a 120 day window from the date of publication for any outstanding creditors to make a claim against the estate.

Price concludes this letter by stating once the creditor period has ended "it is only a matter of liquidating the home and car, completing the final tax return and the estate can be closed and distributions made to you all." Price states she intends to prepare and mail an inventory of Hartman's assets as of the date of his death within 90 days of the date of her letter. Price adds that upon the estate closure, the heirs will receive a "First and Final Account" to include the starting value of Hartman's estate, the income and expenses received by the estate with a final closing value and the value of each distribution.

Despite assurances from Price that she would mail the beneficiaries the inventory and publish the "Notice to Creditors," these events did not occur for several months. The inventory was not completed until a court order was issued to Price in December of 2013 and the "Notice to Creditors" was not initiated until early January 2014. This delay was of major concern to Pratt and she believes Price overcharged the estate as a direct result.

Pratt goes on to further complaint that Entrust and their attorney, Lora Johnson, billed the estate over \$35,000 for something that was “very simple to execute; a house and its contents, a car and a missing life insurance policy.” Pratt states the estate took over 20 months to close and claims Entrust purposely delayed filing taxes so they could file an extension and charge the account heavily.

A review of submitted documents reflect the Hartman house was sold in October 2013, the Inventory and Appraisal was completed the end of December 2013, the “Notice to Creditors” was initiated early January 2014 and the 2013 taxes were completed in June 2014. The heirs received their distributions in September 2014 and signed a “Receipt of Accounting and Release of Liability” for Entrust which was recorded in October of 2014. On January 8, 2015, Entrust filed a petition to close the estate and no objections were filed. Entrusts total fees for the period beginning 12/31/12 and ending on June 1, 2014 were \$10,335.57.

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

In her written complaint as well as a subsequent telephonic interview, Pratt’s main complaint was she felt “out of the loop” as far as communication was concerned and felt the entire process took too much time thus incurring unnecessary expenses to the estate. Pratt acknowledged she was unfamiliar with the probate process, however, she was confused as to why the tax preparation took as long as it did. Pratt inferred from Price’s correspondences that she had the necessary documents by December 2013 and did not understand why it was not filed until June 2014. Pratt also complained she never received a disbursement from the Life Insurance policy Price referenced in her earlier communication.

In her written response and subsequent telephonic interview, Price denied any wrongdoing and points out Pratt misunderstood the complexities and details of the entire probate process. The life insurance policy had been initiated by Hartman many years ago and at that time neither Pratt nor her brother, James Lewis, were part of Hartman’s family. According to “Wendy” of “Fegli” Life Insurance, the policy in question had been earlier paid to Hartman’s natural children immediately after his death. Wendy added it was not uncommon for certain policies to distinguish between children and stepchildren.

With respect to the Inventory and Appraisal of the Hartman estate, Price acknowledged she “erred” by not providing it within the required 90 day window. Price admitted the time frame was missed and immediately upon discovery of the oversight she submitted the required documentation to both the heirs and the court. It is noted, however, that the Court issued a “Notice of Non-Compliance with Court Order” on December 27, 2013, specifically chastising Entrust for the failure to file on time. The court noted Entrust had been appointed in May 2013 with an order to file the documents within 90 days thus missing the required deadline of August 30, 2013.

In regards to the total time frame for closing the Hartman estate, Price stated there were unforeseen circumstances which elongated the process, however, the case was closed in her opinion in a “reasonable” time. Price points out the total time for this case was about 18 months and notes Court instructions allow 24 months as a reasonable time frame. Price said an unexpected death to one of the heirs, the complications incurred by the death and waiting for return documents from the heirs prolonged the matter.

The unexpected death of one of Hartman’s sons, Curt Hartman, meant that his estate assets were to be directed to his children. Price complained that because the whereabouts of Curt’s children were unknown, it took several months to track them down. Once located, Price explained that the situation dictated Curt’s children had to initiate legal actions to be awarded the proceeds from their father which further prolonged the accounting process. Pratt refuted that assertion claiming if Price had begun the process of closing the estate earlier, the death of Curt Hartman would have been mute since he would have been alive during the probate thus negating the need to search for his children.

Price responded by pointing out the process would still have been ongoing because finalization cannot occur until after the final taxes are filed. The situation with Curt occurred in late January 2014 and although it did not directly affect the estate taxes it did put much of the estate process on hold. Price explained that many of the tax documents for the estate did not come in until a few weeks prior to the deadline necessitating a brief extension. Price asserted the taxes were filed in June 2014 noting the disbursements could only be made after their completion.

Price submitted a complete statement of all her fiduciary fees from December 2012 through June 2014. The amounts varied from month to month and all charges appear to be reasonable and directly related to work done for the Hartman estate. There were no “reoccurring” or “service” type fees noted and there was no indication her fees were increased or driven by the time frame. There was no indication of duplication of work and appears the type of work performed by Entrust would have been consistent regardless of the timeframe.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Complainant claims Entrust failed to include the value of decedent’s life insurance policy with the estate assets.

In her introductory letter Price did prematurely infer the proceeds from Hartman’s Life Insurance policy would be included in the total assets of his estate. After researching the matter it was discovered that Pratt and her brother, by virtue of not being the natural children of Hartman and not part of the family at the time of the creation of the policy, were not entitled to any of the proceeds. Price did confirm the policy had been paid out

upon Hartman's death and, upon learning it was not part of the estate, could have taken the extra step to clarify this information with the heirs. Since the policy technically was not part of the estate, allegation 1 is not substantiated.

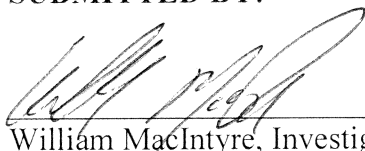
Allegation 2: Complainant alleges Entrust did not provide beneficiaries with estate inventory in a timely manner.

In her letter to the heirs dated May 29, 2013, Price stated she would mail them an inventory of the Hartman estate assets within 90 days. Court documents also confirm Price had a 90 day commitment to submit the inventory/appraisal which would have been due no later than August 30, 2013. It wasn't until an email was sent to Price from Pratt on December 22, 2013 inquiring about the inventory when Price eventually complied. Pratt's inquiry also coincided with a Court Order dated December 27, 2013, which reprimanding Price about the failure to submit the documentation. Allegation 2 is substantiated.

Allegation 3: Complainant alleges Entrust mismanaged decedent's estate resulting in excess fee's being charged.


Price pointed out several unforeseen circumstances which did prolong various aspects of the case. The unforeseen death of one of the heirs, the difficulties of locating one of his heirs and waiting for return documents from some of the Hartman's heirs took longer than expected according to Price. Despite the obstacles, Price pointed out that any further action from her was dependent upon the completion of the 2013 estate tax returns. Price said that was complicated by the work load of her CPA and, even though it wasn't completed until June 2014, it was done with the proper extensions. An examination of Price/Entrusts fee statements for the timeline of the case revealed no unusual or inexplicable charges. Allegation 3 is unsubstantiated.

SUBMITTED BY:


William MacIntyre, Investigator
Certification and Licensing Division

12/9/15 Date

REVIEWED BY:


Certification and Licensing Division

2/2/16 Date

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number **14-0007/0008**, the Probable Cause Evaluator:

☐ requests division staff to investigate further.

☒ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

#s/43.

☐ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#2 -

Mike Baumstark 2/16/14

Mike Baumstark

Date

Probable Cause Evaluator

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

<i>CERTIFICATE HOLDER/LICENSEE INFORMATION</i>	Certificate Holder:	Lisa Price
	Certification Number:	20120
	Business Name:	Entrust Fiduciary Services
	Certificate Number:	20545

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Lisa Price and Entrust Fiduciary Services have not committed the alleged act(s) of misconduct as detailed in Allegations 1 and 3 of the Investigation Summary and Allegation Analysis Report in complaint number 14-0007/0008.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Lisa Price Entrust Fiduciary Services have committed the alleged act(s) of misconduct as detailed in Allegation 2 of the Investigation Summary and Allegation Analysis Report in complaint number 14-0007/0008.

It is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and ACJA § 7-201(H)(6)(k)(2) for act(s) of misconduct involving failure to comply with a court order and for failure to comply with ACJA § 7-202(F)(6)(b) each by failing to timely complete and file an inventory.

It is further recommended the Board issue a Letter of Concern.

SUBMITTED BY:

Director
Certification and Licensing Division

Date

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 14-0007/0008 and Lisa Price and Entrust Fiduciary Services,

certificate numbers 20120 and 20545 makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

☐ requests division staff to investigate further.

☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

☐ dismisses the complaint, and:

☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:

☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.

☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).


☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

☒ adopts the recommendations of the Division Director.

☐ does not adopt the recommendations of the Division Director and orders:

 3/10/16
Catherine Robbins, Vice Chair Date
Fiduciary Board

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14-0008\Case Summ 14-0007-0008.docx



Supreme Court

STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

March 10, 2016

Scott Bales
Chief Justice

David K. Byers
Administrative Director
of the Courts

Entrust Fiduciary Services, Inc.
Attention: Lisa Price
4636 East University Drive, Suite 275
Phoenix, AZ 85034

RE: LETTER OF CONCERN - Complaint Numbers 14-0007/14-0008

Dear Ms. Price:

On March 10, 2016, the Fiduciary Board ("Board"), pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(7), and (H)(24)(a)(6)(a):

1. Reviewed the attached Investigation Summary, Probable Cause Evaluation Report, and Recommendation;
2. Entered a finding grounds for discipline exist in this complaint;
3. Ordered resolution of the complaint through an informal disciplinary sanction; and,
4. Entered the enclosed Order to issue this Letter of Concern as to Allegation 2 only.

ACJA § 7-201(H)(24)(b)(2) provides:

A letter of concern is a written informal discipline sanction and is not appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.

If you choose to submit a written response, please address it to the Board. Pursuant to ACJA § 7-201(H)(1)(g) and (H)(24)(b)(2), this Letter of Concern and your response are not confidential.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Robbins", is written over a horizontal line.

Catherine Robbins, Vice Chair
Fiduciary Board

Enclosures